

# EXHIBIT A

**From:** Randall Garteiser <rgarteiser@ghiplaw.com>  
**Sent:** Thursday, August 07, 2014 1:58 PM  
**To:** Shinn, Lindsey M.  
**Cc:** chonea@ghiplaw.com; Johnson, Jr., Daniel; Bregman, Dion M.; pbrasher@ghiplaw.com; kanderson@ghiplaw.com; Tautkus, Rita E.  
**Subject:** Re: ED Texas: PLR 4-3 update

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Thanks fine, go ahead.



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On Aug 7, 2014, at 12:57 PM, Shinn, Lindsey M. <[lishinn@morganlewis.com](mailto:lishinn@morganlewis.com)> wrote:

Dear Randall,

Further to Rita's email below, thanks very much for your cooperation and written confirmation. The motion is currently styled as an unopposed motion for leave to file (see attached). Please let us know by 3pm central/1pm pacific if you have any objection. Unless we hear from you by then, we'll go ahead file the attached, in two separate filings – the motion and proposed order, and then the 4-3.

Thanks again,  
Lindsey

**Lindsey M. Shinn**  
**Morgan, Lewis & Bockius LLP**  
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Assistant: Patricia A. Neely | +1.650.843.7874 | [pneely@morganlewis.com](mailto:pneely@morganlewis.com)

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**From:** Tautkus, Rita E.  
**Sent:** Thursday, August 07, 2014 8:41 AM  
**To:** '[rgarteiser@ghiplaw.com](mailto:rgarteiser@ghiplaw.com)'; Shinn, Lindsey M.

**Cc:** '[chonea@ghiplaw.com](mailto:chonea@ghiplaw.com)'; Johnson, Jr., Daniel; Bregman, Dion M.; '[pbrasher@ghiplaw.com](mailto:pbrasher@ghiplaw.com)'; '[kanderson@ghiplaw.com](mailto:kanderson@ghiplaw.com)'  
**Subject:** Re: ED Texas: PLR 4-3 update

Thank you Randall. We will do so today. Regards, Rita

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Rita E. Tautkus  
Morgan, Lewis & Bockius LLP  
One Market, Spear Street Tower | San Francisco, CA 94105-1126  
Direct: +1.415.442.1357 | Fax: +1.415.442.1001  
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Assistant: Mary A. Jensen | +1.415.442.1338 | [mjensen@morganlewis.com](mailto:mjensen@morganlewis.com)

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**From:** Randall Garteiser [<mailto:rgarteiser@ghiplaw.com>]  
**Sent:** Thursday, August 07, 2014 07:44 AM Pacific Standard Time  
**To:** Shinn, Lindsey M.  
**Cc:** Christopher Honea <[chonea@ghiplaw.com](mailto:chonea@ghiplaw.com)>; Johnson, Jr., Daniel; Bregman, Dion M.; Tautkus, Rita E.; Peter Brasher <[pbrasher@ghiplaw.com](mailto:pbrasher@ghiplaw.com)>; Kirk Anderson <[kanderson@ghiplaw.com](mailto:kanderson@ghiplaw.com)>  
**Subject:** Re: ED Texas: PLR 4-3 update

We do not oppose the filing of the amended P.R. 4-3 to add in the experts that defendants had listed in the P.R. 4-2 statement.

Since it is joint statement, you have our permission to file this modification as a stipulation.

<image001.png>

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On Aug 5, 2014, at 2:22 PM, Shinn, Lindsey M. <[lishinn@morganlewis.com](mailto:lishinn@morganlewis.com)> wrote:

Dear Mr. Garteiser,

Further to our correspondence of last Friday, August 1, please let us know today whether you will stipulate to update the joint 4-3 statement for the Court.

If you have any further questions, please let us know.

Thanks,  
Lindsey

**Lindsey M. Shinn**

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**From:** Shinn, Lindsey M.

**Sent:** Friday, August 01, 2014 6:38 PM

**To:** 'Randall Garteiser'

**Cc:** Christopher Honea; Johnson, Jr., Daniel; Bregman, Dion M.; Tautkus, Rita E.; Peter Brasher; Kirk Anderson

**Subject:** RE: ED Texas: PLR 4-3 update

Dear Mr. Garteiser,

Please find the proposed draft attached. As we stated previously, there has been no change in position. The joint 4-3 statement currently on file says that "[t]he Parties agree that they may call witnesses at the claim construction hearing." The names of these witnesses were disclosed to you in Defendants' 4-2 disclosure. It was merely an oversight not to include them in the joint 4-3 statement. Defendants simply wish to correct this oversight for the Court. We believe that the Court will agree with our position, particularly since you have been on notice, but, in any event, we appreciate your willingness to consider a joint stipulation. Please let us know if you object.

Best,  
Lindsey

**Lindsey M. Shinn**

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**From:** Randall Garteiser [<mailto:rgarteiser@ghiplaw.com>]

**Sent:** Friday, August 01, 2014 4:31 PM

**To:** Shinn, Lindsey M.

**Cc:** Christopher Honea; Johnson, Jr., Daniel; Bregman, Dion M.; Tautkus, Rita E.; Peter Brasher; Kirk Anderson; Ian Ramage

**Subject:** Re: ED Texas: PLR 4-3 update

Dear Counsel:

Please send us a draft of the document you want to file with the Court. We will let you know promptly if we oppose it or may even stipulate to filing it. It doesn't seem like you've addressed my question, so we need to look at the draft document to ensure Blue Spike agrees. Sounds like now defendants want to call an expert, regardless of whether Blue Spike does or does not. That's not what the defendants submitted to the Court in the P.R. 4-3, as the issues were narrowed down from the original P.R. 4-1 and P.R. 4-2 disclosures. Defendants filed the P.R. 4-3 not once, but twice and in both of those versions it never mentioned calling an expert a claim construction unless Blue Spike planned to do so. Defendants were very uncooperative and even filed the first version without Plaintiff's position.

Thanks in advance for your cooperation.

<image001.png>

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On Aug 1, 2014, at 1:58 PM, Shinn, Lindsey M. <[lishinn@morganlewis.com](mailto:lishinn@morganlewis.com)> wrote:

Dear Mr. Garteiser,

Apologies for any confusion - we speak for all of the Joint Defendants in seeking to update the 4-3, for completeness. In answer to your clarifying question below, nothing has changed about Defendants' position. We simply seek to include in the joint 4-3 statement, for the Court, information previously provided in Defendants' 4-2 disclosures.

Please let us know as soon as possible if you will agree to a joint updated filing, or if you intend to oppose.

Best,

Lindsey

**Lindsey M. Shinn**

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**From:** Randall Garteiser [<mailto:rgarteiser@ghiplaw.com>]

**Sent:** Monday, July 28, 2014 09:40 PM Pacific Standard Time

**To:** Tautkus, Rita E.

**Cc:** Christopher Honea <[chonea@ghiplaw.com](mailto:chonea@ghiplaw.com)>; Johnson, Jr., Daniel; Bregman, Dion M.

**Subject:** Re: ED Texas: PLR 4-3 update

Ultimately, Defendants indicated they would only call an expert if Blue Spike decided to call one. Is your client now changing its position from the joint P.R. 4-3 submitted to the Court?

Thanks for clarifying.

<image001.png>

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On Jul 28, 2014, at 3:51 PM, Tautkus, Rita E. <[rtautkus@morganlewis.com](mailto:rtautkus@morganlewis.com)> wrote:

Dear Messrs. Garteiser and Honea,

Defendants seek to make a minor update to the parties' Joint Claims Construction and Prehearing Statement, filed pursuant to Patent Local Rule 4-3. Specifically, although we included the names of our experts in Defendants' Patent Local Rule 4-2 submission, our Patent Local Rule 4-3 statement merely mentioned that we intend to rely on expert witnesses without again listing the expert witnesses by name. As such, for completeness, we would like to amend our statement to include the names of the expert witnesses. Please let us know as soon as possible if you will agree to a joint updated filing to make this minor change.

Regards, Rita

**Rita E. Tautkus**

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<(25245279)\_(4)\_8-7-14 Blue Spike - PR 4-3 Supp. Joint Claim Construction Statement.DOCX><(25258588)\_(2)\_8-7-14 Unopposed Mot for Leave to File Supp 4-3 Statement.DOCX><(25258636)\_(2)\_8-7-14 PO Granting Motion to File Supp. Jt Claim Construction Stmt.DOCX>